



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Richard Sweet
Clearinghouse Director

Pam Shannon
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 11-031

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

2. Form, Style and Placement in Administrative Code

a. Under the heading “Analysis of Rule”, there should be 12 numbered headings, in the order, and with the titles, shown in s. 1.02 (2) (a), Manual. For example, heading 3 should be titled “Explanation of agency authority”, heading 4 should be titled “Related statute or rule”, and heading 5 should be titled “Plain language analysis”. This rule is missing one heading. The Manual states that if there is no information under a particular heading, the heading should be included and the text should state that there is no information.

b. The heading “TEXT OF RULE” should be inserted at the beginning of the rule text.

c. If the department intends to eliminate the current definition of “camping unit transfer container” in s. Comm 81.01 (51) and create a definition of “RV transfer tank”, SECTION 1 of the rule should contain the repeal of s. Comm 81.01 (51) and SECTION 2 should contain the creation of the definition of “Recreational vehicle (RV) transfer tank”. That definition should be numbered s. Comm 81.01 (201m). When the term is used subsequently in the rule, it may read “RV transfer tank”. The language currently in SECTION 2 should be deleted.

d. In SECTION 4, the first clause should be amended as follows: “Except as permitted in ~~subd.~~ subds. 4. and 5.”.

e. In SECTION 5, the “and” at the end of s. Comm 82.40 (8) (b) 4. a. should be replaced by a period. [See s. 1.03 (1) (b), Manual.] In subd. 4. b., the phrase “at a minimum of” should be replaced by “at least”, for consistency with language in s. Comm 82.40 (8) (b) 3.

f. In SECTION 8, a Note to s. Comm 82.40 (8) (b) 7. already exists, so this treatment clause should either amend or repeal and recreate the Note, rather than creating it. In the text of the new Note, “chapter” should read “ch.”.

4. Adequacy of References to Related Statutes, Rules and Forms

a. Under the heading “Analysis of Rule”, in item 2., the statement of statutory authority should provide citations to *specific* statutory provisions providing statutory authority for the rule, rather than citing two entire statutory chapters.

b. Under the heading “Analysis of Rule”, in item 3., relevant provisions of statutes and rules of the Department of Natural Resources (DNR) could be cited, since DNR provisions are referenced in various provisions of the rule [for example, in s. Comm 83.33 (2), Note, which references ch NR 113].

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In SECTION 9, the word “their” in *current* s. Comm 83.255 (1) (a) 1. should be changed to “its”, as follows: “~~their~~ its”.

b. In the treatment clauses to SECTIONS 13 and 16, “is” should be changed to “are”.

c. In SECTION 16, it is unclear from the phrase “servicing...shall occur to prevent...” how frequently the servicing must occur. It might help to insert the phrase “as frequently as necessary (to prevent the discharge of wastewater...)” after “occur”, if that is the intent. Finally, the Note following s. Comm 83.54 (3) (d) provides a definition of “servicing” under s. NR 113.03 (57) that lists a number of items to be serviced, but does not mention RV transfer tanks, which are the subject of this rule provision. Does the NR code definition apply to RV transfer tanks? If not, should a definition of “servicing” that includes RV transfer tanks be created in s. Comm 81.01?

d. It is suggested that the underscored language and Note currently in SECTION 17 be moved to a new SECTION 18 with the following treatment clause: “Comm 83.54 (4) (bm) and Note are created to read:”. The language should *not* be underscored, as it is newly created, and the “1.” should be deleted. The remaining SECTIONS should then be renumbered.

e. In SECTION 21, which contains changes to Comm 83 Appendix Table A-83.43-1, the following should be noted:

- (1) The word “condominium” on the first line of the Source column is misspelled.

(2) It appears that the asterisks denoting certain items in the current Table should be deleted (stricken through), as all of those asterisked entries are now marked by a footnote “a”, making the asterisks superfluous. Also, for readability, it might be preferable to use numbers, rather than letters for the footnotes.

(3) Also, in footnote a, the acronyms “BOD” and “FOG” are used. “BOD5” is defined in s. Comm 81.01 (32), but “BOD” itself is not, though it appears to stand for “biochemical oxygen demand”. “FOG” does not appear to be defined anywhere. If the acronyms are not defined elsewhere so that it is clear what they mean, the phrases for which they stand should be used instead.

(4) In footnote c, what does it mean to “contain high lint”? Should it read instead: “May contain a high level of lint”?